

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO MORE THAN ONE KIND OF UTILITY

PART 289
REGULATORY ACCOUNTING TREATMENT
FOR ~~THIRD-PARTY~~ CLOUD-BASED COMPUTING SOLUTIONS

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AUTHORITY: Implementing Sections 9-101 and 9-201 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-101, 9-201 and 10-101].

SOURCE: Adopted at 43 Ill. Reg. _____, effective _____.

Section 289.10 Purpose

The purpose of this Part is to provide comparable accounting treatment for ~~third-party~~ cloud-based computing solutions and on-premises computing solutions. This Part authorizes a regulatory accounting alternative that any public utility subject to the provisions of this Part may utilize in order to minimize differences in regulatory accounting treatment for ~~third-party~~ cloud-based computing solutions and on-premises computing solutions to ensure utilities make decisions regarding the procurement of computing solutions on the bases of efficiency and function rather than the accounting treatment of the associated costs.

Section 289.20 Definitions

"Act" means the Public Utilities Act [220 ILCS 5].

"Affiliate-leased" means an item for which an affiliate of the public utility has legal right of possession and/or use for a contractually defined term.

"Affiliate-owned" means an item for which an affiliate of the public utility has legal right of possession.

"Cloud-based" means electronic applications, services or resources obtained from an outside service provider's servers via access to the internet or other computer network.

"Commission" means the Illinois Commerce Commission.

"Computing service" means a computing activity or computing solution provided by an outside service provider and in which service the public utility or its affiliate does not have and will not obtain an ownership interest.

"Computing solution" means a way in which a problem or task is solved or otherwise addressed using electronic computers.

"On-premises" means electronic applications, services, or resources that are provided using services and computing infrastructure owned by the public utility or its affiliate.

"Financial accounting" means the accounting treatment, rules, and reporting processes required as of August 28, 2018 by the Financial Accounting Standards Board (FASB), 401 Merritt 7, PO Box 5116, Norwalk CT 06856-5116, or its successor. No later editions or amendments are incorporated.

"Outside service provider" means a provider of computing services that is not owned by, affiliated with or otherwise related to the public utility or an affiliate of the public utility.

"Public utility" shall have the same meaning as in Section 3-105 of the Act.

"Regulatory accounting" means the accounting treatment, rules, and reporting processes required by the Commission.

"Regulatory asset" means expenses that are capitalized pursuant to FASB Accounting Standards Codification Section 980-340-25-1 (version 2.0, adopted February 25, 2016).

"Service contract" means the legal document that governs a public utility's and/or its affiliate's agreement to obtain computing services from an outside service provider. Any service contract extension or renewal shall be accounted for as a separate ~~regulatory asset~~ service contract under this Part.

"Service contract term" means the period of time during which the outside service provider is obligated to provide computing services under the service contract and excludes the period associated with optional contract extensions and any period after the effective date of a service contract cancellation.

~~"Third party" means an outside service provider that is not an affiliate of the public utility.~~

"Utility-leased" means an item for which the public utility has legal right of possession and/or use for a contractually defined term.

"Utility-owned" means an item for which the public utility has legal right of possession.

Section 289.30 Applicability

- a) The regulatory accounting treatment set forth in this Part shall only apply to costs within the jurisdiction of the Commission and shall be available to all public utilities for which the Commission regulates rates.
- b) The regulatory accounting treatment set forth in this Part shall apply to services rendered and costs incurred subsequent to the effective date of this Part.

Section 289.40 Regulatory Accounting Treatment

- a) A public utility may record as a regulatory asset and, subject to the Commission's determination of prudence and reasonableness in a rate case, include in rate base eighty percent (80%) of the costs incurred from an outside service provider for a cloud-based computing solution or computing service that would be recorded to a utility plant account in accordance with financial accounting requirements if the costs were for an on-premises computing solution, rather than a third party cloud-based computing solution, if all the requirements in subsection (b) are met. The remaining twenty percent (20%) of such costs shall be recorded as an operating expense. All other costs associated with third party a cloud-based computing solution or computing service, including but not limited to, implementation costs, training costs, and data conversion costs, shall be included in rate base or recorded as an operating expense or be recorded in accordance with financial accounting requirements, Commission practice, rules, and law.

- b) A public utility that records a regulatory asset as authorized under this Part shall meet the following requirements:
- 1) The public utility shall record as a regulatory asset only costs incurred through the period being reported, including prepayments, for a ~~third-party~~ cloud-based computing solution or computing service.
 - 2) ~~A public utility has the burden to prove, in any case before the Commission seeking recovery of costs associated with third-party cloud-based computing solutions, that those costs that are being recorded as a regulatory asset under this Section would be recorded to a utility plant account if these costs were for an on-premise computing solution.~~
 - 3) ~~The public utility shall ensure that each regulatory asset is associated with a specific service contract. Such service contracts shall, to the extent possible, break down various costs associated with the third-party cloud-based computing solutions that show the nature of these costs, for example, whether such costs are related to: development, coding or testing of the computing solution; obtaining computer software licenses or computer hardware; customization or configuration of computing solution; maintenance or support of computing solution's operation (such as, management, patching, reporting and resolving problems or incidents); related training of public utility employees; network connectivity charges; data storage charges; any overhead expenses.~~
 - 43) The public utility shall amortize each regulatory asset in accordance with the instructions in subsection (c).
 - 54) The public utility shall report specific information regarding regulatory assets.
 - A) For the period from [effective date] through December 31, 2024~~5~~, the public utility shall email the Accounting Department of the Illinois Commerce Commission at ICC.AccountingMgr@Illinois.gov within six months after the effective date of this rule and subsequently, every March 31 and September 30, a notification containing the recording of each new regulatory asset under this Part for the previously unreported period. The notification shall identify the type of computing service, the service contract term, and the cost set forth in the service contract.

- B) For the period from [effective date] through December 31, 2024~~5~~, with each rate case filing, the public utility shall identify the five highest-cost regulatory assets, as well as any regulatory assets equal to or in excess of \$1,000,000.00, that the public utility recorded under this Part and included in rate base in Section 285.2010, Schedule B-2, or Section 285.2095, Schedule B-10, in accordance with 83 Ill. Adm. Code 285. For each identified regulatory asset, the public utility shall provide the information set forth in 83 Ill. Adm. Code 285.6100(b)(1) through (7) (Schedule F-4).
 - C) After December 31, 2024~~5~~ with each rate case filing, the public utility shall include regulatory assets recorded under this Part when complying with 83 Ill. Adm. Code 285.6100 (Schedule F-4) when those regulatory assets recorded under this Part meet or exceed the individual project cost thresholds shown in the table provided in 83 Ill. Adm. Code 285.6100(a).
- c) Amortization of the Regulatory Asset
- 1) Each regulatory asset recorded under this Part shall be amortized individually.
 - 2) Each regulatory asset recorded under this Part shall be amortized over a period beginning with the in-service date and ending at the conclusion of the service contract term with which the regulatory asset is associated.
 - 3) In the event of a service contract cancellation, the remaining unamortized balance of the associated regulatory asset recorded under this Part, inclusive of any reduced cost, refund or surcharges associated with the cancelation, shall be amortized to expense on the effective date of the service contract cancellation. In the event of a service contract impairment, the impairment shall be recognized and measured in accordance with the financial accounting requirements as if the costs were for an on-premises computing solution.
 - 4) The amortization method used by a public utility to amortize any part of a regulatory asset under this Part remains subject to the Commission's determination of prudence and reasonableness in a rate case.